

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

VENTANA MEDICAL SYSTEMS, INC.,

Plaintiff,

v.

VISION BIOSYSTEMS, INC.,

Defendant.

CIVIL ACTION NO. 05-CV-10614-GAO

STIPULATION AND [PROPOSED] SCHEDULING ORDER

Plaintiff Ventana Medical Systems, Inc. and defendant Vision BioSystems, Inc. respectfully submit this stipulation and proposed scheduling order.

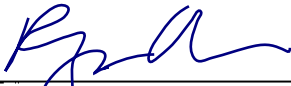
The patent-in-suit (U.S. Patent No. 6,352,861 B1) is currently at issue in a pending appeal before the United States Court of Appeals for the Federal Circuit, in *Ventana Medical Systems, Inc. v. BioGenex Laboratories, Inc.*, Case No. 06-1074 (“the BioGenex Appeal”). Briefing on the BioGenex Appeal is expected to be complete in January 2006.

The parties previously requested the Court to set a schedule that would allow for completion of all discovery by June 1, 2006. However, it is unclear whether the Federal Circuit will issue an opinion in the BioGenex Appeal prior to that time. The parties believe that further discovery would be most efficiently conducted after having received the opinion from the Federal Circuit.

IT IS HEREBY STIPULATED by the parties to this action, subject to the order of the Court, as follows:

1. Expert reports by the party with the burden of proof shall be served no later than four weeks after the Federal Circuit issues its opinion in the BioGenex Appeal.
2. Responsive expert reports shall be served no later than eight weeks after the Federal Circuit issues its opinion in the BioGenex Appeal.
3. All discovery shall be completed no later than twelve weeks after the Federal Circuit issues its opinion in the BioGenex Appeal.
4. The parties shall cooperate to allow completion of appropriate discovery within the aforementioned time frames, including any appropriate discovery necessitated by the recent death of Ventana's expert witness, Mr. Ted Williams.

VENTANA MEDICAL SYSTEMS, INC.



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SO ORDERED this _____ day of January, 2006.

George A. O'Toole, Jr.
United States District Judge